

ENTERED

April 20, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

CECILIA OSORIO; §
ROLANDO ENCARNACION OSORIO; §
ROSALBA OSORIO; MARIA DE §
LOURDES OSORIO; RUBEN JAMES §
OSORIO; JULIO CESAR OSORIO §
PRECIADO; and §
ALEXANDRA MONTEJANO GAUNA, §
Individually and as Next Friend of §
PAULINA OSORIO MONTEJANO, §
A Minor §

vs. §

SHARKEY TRANSPORTATION, INC., §
ANDREW CARLYLE EITEL, and §
OSCAR RUBEN OSORIO §

CIVIL ACTION NO. 1:15-cv-00160

**ORDER GRANTING THE
AGREED MOTION AS TO CLAIM(S) ON BEHALF OF
MINOR PLAINTIFF (PAULINA OSORIO MONTEJANO)
AND STIPULATION OF DISMISSAL
AS TO CLAIMS ASSERTED AGAINST DEFENDANTS
SHARKEY TRANSPORTATION, INC. AND ANDREW CARLYLE EITEL**

On the 19th day of April, 2016 came on for consideration the "*Agreed Motion as to Claim on Behalf of Minor Plaintiff (Paulina Osorio Montejano) and Stipulation of Dismissal as to Claims Asserted Against Defendants Sharkey Transportation, Inc. and Andrew Carlyle Eitel*" pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii). (Dkt No. 40).

After having considered the pleadings on file, and pursuant to the terms of the terms of the settlement between the Minor Plaintiff (Paulina Osorio Montejano) and Defendants:

a) Sharkey Transportation, Inc. and b) Andrew Carlyle Eitel approved at the April 13, 2016

Status Conference, the Court finds that the Motion should be GRANTED.

IT IS THEREFORE ORDERED (AND IS THE JUDGMENT OF THIS COURT)

AS FOLLOWS:

1. This case is not a class action.
2. A receiver has not been appointed in this action.
3. This case is not governed by any federal statute that requires an order of the Court for dismissal of the case.
4. No party has previously dismissed any federal or state court action based on or including the same claims as those presented in this suit.
5. As set forth at the April 13, 2016 Status Hearing convened by this Court (which approved the settlement on behalf of the Minor Plaintiff against Defendants Sharkey Transportation, Inc. and Andrew Carlyle Eitel) the total net dollar amount of settlement proceeds for the benefit of the Minor Plaintiff, Paulina Osorio Montejano (from Sharkey Transportation, Inc. and/or Andrew Carlyle Eitel), totals \$13,000.00.
6. Sharkey Transportation, Inc. is directed by this Court to deposit the sum of Thirteen thousand and no/100ths Dollars (\$13,000.00) into the registry of the Court for the United States District Court for the Southern District of Texas within fifteen (15) days of the execution of this Order.
7. The United States District Clerk's Office is directed to place these funds into an interest-bearing account. This sum shall remain on deposit in the registry of the Court (accruing such interest as allowed by law) and may not be withdrawn until such further Order of this Court and/or until the Minor Plaintiff reaches the age of eighteen (18)¹.
8. Any and all claims of the following Plaintiffs against Defendants: a) Sharkey Transportation, Inc.; and/or b) Andrew Carlyle Eitel are hereby dismissed with prejudice to the right to refile same:
 - a. Cecelia Osorio;
 - b. Rolando Encarnacion Osorio;
 - c. Rosalba Osorio;
 - d. Maria De Loudres Osorio;

¹ The date of birth for the Minor Plaintiff is January 11, 2006. The last four (4) digits of the Social Security Number for the Minor Plaintiff are "0125".

- e. Ruben James Osorio;
- f. Julio Cesar Osorio Preciado;
- g. Alexandra Montejano Gauna, Individually;
- h. Alexandra Montejano Gauna, as Next Friend of Paulina Osorio Montejano, a minor; and/or
- i. Oscar Ruben Osorio²

(each Plaintiff above is hereinafter, collectively referred to as the "***Sharkey Transportation Plaintiffs***")

- 9. The Guardian Ad-Litem appointed by this Court to evaluate and/or address the settlement of the claims of the Minor Plaintiff (Paulina Osorio Montejano) against Sharkey Transportation, Inc. and Andrew Carlyle Eitel is Carla Saenz Martinez. The attorneys' fees to be paid by Sharkey Transportation, Inc. to the Guardian Ad-Litem for this matter (Carla Saenz Martinez) is \$1,800.00.
- 10. This dismissal is with prejudice to the re-filing of any claims by and/or on behalf of the Sharkey Transportation Plaintiffs against: a) Sharkey Transportation, Inc. and/or b) Andrew Carlyle Eitel.
- 11. This Order does not dismiss (or even address) the claims asserted by the following Plaintiffs against Oscar Ruben Osorio, which remain pending:
 - a. Cecelia Osorio;
 - b. Rolando Encarnacion Osorio;
 - c. Rosalba Osorio;
 - d. Maria De Loudres Osorio;
 - e. Ruben James Osorio;
 - f. Julio Cesar Osorio Preciado;
 - g. Alexandra Montejano Gauna, Individually;
 - h. Alexandra Montejano Gauna, as Next Friend of Paulina Osorio

² Oscar Ruben Osorio has asserted his claims against Sharkey Transportation, Inc. and Andrew Carlyle Eitel by and through a Cross-Claim inasmuch as Oscar Ruben Osorio is a party Defendant in this action. The Cross-Claim filed by Oscar Ruben Osorio has been filed by his attorney, Dennis A. Longoria.

Montejano, a minor

(hereinafter collectively referred to as the "*Oscar Ruben Osorio Plaintiffs*").

12. The claims of the Oscar Ruben Osorio Plaintiffs shall remain pending claims against Oscar Ruben Osorio.

SIGNED on this 19th day of April, 2016 at Brownsville, Texas.


JUDGE PRESIDING